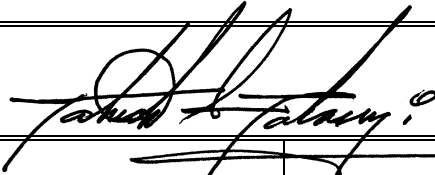


IDAHO STATE  
DEPARTMENT OF AGRICULTURE

APPROVED BY:



ORIGINAL EFFECTIVE DATE:

August 1, 1997

REVISION DATE:

August 8, 2005

TITLE:     **Work Schedule Policy**

An **accurate** record of actual hours worked and leave taken must be reported on the payroll time record. Time records must be submitted to the ISDA Human Resources Office in Boise **by Noon Monday** following the end of the biweekly pay period.

The policy of this state, as declared in Section 67-5326, Idaho Code, shall not restrict the extension of regular work hour schedules on an overtime basis in those activities and duties **where such extension is necessary and authorized**. **Overtime** is considered any hours **actually worked in excess of 40 in the normal workweek**, and/or **any hours actually worked on an officially designated state holiday**.

Most state employees are covered by the Fair Labor Standards Act (FLSA) as amended and state laws in conformance with FLSA in Section 67-5329, Idaho Code. All employees are subject to Title 67, Chapter 53, and Title 59, Chapter 16, Idaho Code. The Idaho Division of Human Resources designates which employees fall within the FLSA-**Covered** and **Exempt** categories.

The Idaho State Department of Agriculture follows the FLSA and all applicable federal and state laws and rules regarding employee compensation. Any employee who believes a problem exists in regard to hours of work, whether a position is FLSA-Covered or Exempt, or any issue related to hours of work and overtime compensation is encouraged to report the issue to their supervisor, manager or Administrator as soon as possible. The Department will take prompt action to correct problems identified and communicate the action to the employee. **No employee will be subject to retaliation for reporting a wage and hour concern.**

FLSA Exempt Employees:

Administrative or Professional Exemptions - These employees are eligible to earn compensatory time for overtime worked. See Idaho Code Sections 67-5302(1) and (27). Employees shall be allowed compensatory time off from duty for overtime worked. Such compensatory time shall be earned on a one-hour-for-each-hour-

worked basis. These employees are not eligible for cash compensation for overtime unless cash payment is specifically authorized by the State Board of Examiners for overtime accumulated during unusual or emergency situations [Section 67-5329(3)]. Supervisors may request cash compensation for overtime for an individual in a highly unusual or emergency situation via the Division Administrator, who will determine if the request goes forward.

Employees designated as “Executive” may earn comp time, up to 240 hours maximum, but are ineligible for cash compensation. See Idaho Code Sections 67-5329(2) and 5302(12).

Discharge of Accrued Compensatory Time/EAL for Administrative, Executive, and Professional Employees:

With prior approval of his/her supervisor, an employee may take accrued compensatory time off. Accumulated compensatory time cannot be transferred from the Department to another department within the state. If comp time is not used before transfer or separation from state employment, it is forfeited. Compensatory time lost at the time of transfer or separation cannot be reinstated at a later date.

FLSA Covered Employees:

FLSA-Covered employees are eligible for cash or compensatory time off for overtime worked. They shall receive cash compensation or compensatory time off in accordance with Idaho Code Section 67-5329(3) at one-and-one-half times their regular hourly rate of pay for all overtime hours worked and all hours worked on a holiday or the official day observed in lieu of the holiday. The requirement to compensate (cash compensation or compensatory time) for overtime worked may not be waived by an agreement between the employee and the supervisor. Although it is Department policy that advance approval be obtained before an employee may work overtime, any overtime worked by an FLSA-Covered employee must be compensated.

It is the policy of the Idaho State Department of Agriculture that FLSA-covered employees will receive compensatory time for overtime worked, and not be paid in cash, except as otherwise provided in this policy. In all other situations, the Division Administrator or equivalent will determine when cash compensation is allowed for covered overtime work.

It is the responsibility of supervisors to consult with and communicate this policy to FLSA-Covered employees as a part of each employee’s job offer. All FLSA-Covered employees should have a written acknowledgment of this policy on file.

Discharge of Accrued Compensatory Time/EAL for FLSA-Covered Employees:

All comp time accumulated that exceeds 240 hours must be paid in cash. Comp time accrued in a prior 6-month period must also be paid. Compensatory time which has been earned during any one-half fiscal year but not taken by the end of the succeeding one-half fiscal year will be paid in cash on the first payroll following the close of such fiscal year.

Accrued compensatory time must be taken before vacation leave can be used, as long as the employee does not lose vacation time due to the maximum accrual provision of Idaho Code Section 67-5335. In addition, compensatory time should be taken before leave without pay.

Upon an employee's termination, accrued compensatory time must be paid in cash at one-and-one-half times the employee's final regular hourly rate or the average regular hourly rate received during the last three years of employment, whichever is greater, at the time of the transfer to another agency or upon separation from state service.

**Advance Approval** from supervisors is required for leave, working overtime, and work schedule changes in all cases except unplanned personal and family sick leave. In those instances, approval is required upon return to work.

**Standard Workweek** is any 40 hours in a period of 168 consecutive hours starting at 12:01 a.m. Sunday and ending at 12:00 midnight Saturday.

**Work Schedules** - Standard office hours are 8:00 a.m. to 5:00 p.m. with a one-hour unpaid lunch break. Each supervisor is authorized to change the beginning and ending of daily working hours and lunch to meet special work requirements, handle emergencies, or better serve the public interest.

Work schedules for full-time employees shall be 40 hours per workweek including hours worked and all authorized leaves. Work schedules for temporary, seasonal, and part-time employees shall be established on an individual basis and may vary from workweek to workweek. The supervisor may consider such factors as workload demands, amount and type of available funding, and employee skills when determining work schedules.

**Breaks** can be structured or unstructured, and are intended to help employees maintain a high level of performance. Breaks are a privilege and are restricted to no more than 15 minutes in the morning and 15 minutes in the afternoon. Guidelines for breaks include:

- 1) Supervisors are authorized to control and set the time for breaks so they are scheduled in a manner that does not disrupt Department business.
- 2) Employees cannot forego breaks in order to leave work early.

- 3) Breaks cannot be used in setting flextime hours, or accumulated for taking time off from work.

**Flextime** - Employees may request a flexible work schedule (flextime). Flextime must be approved in advance by the supervisor, since the use of flexible hours may not be compatible with all work operations. Fulltime employees with flextime schedules of more than 8 hours per day will revert back to 8 hours per day during holiday weeks. In addition, the supervisor is authorized to temporarily change the flextime schedule as necessary to accommodate special work requirements. All work units should ensure that offices serving the public are adequately staffed between 8:00 a.m. and 5:00 p.m. Flextime does not change the standard workweek. The **actual hours worked** each day must be reported on the employee's time record.

**Specific Time Reporting Requirements:**

1. FLSA-Covered employees. Great care must be taken to ensure FLSA-Covered employees do not eat lunch at their desks and continue to work or be interrupted by work requests, phone calls, etc. If such work is expected or permitted by the supervisor, the entire lunch break must be considered work time.
2. FLSA-Exempt employees. More flexibility in scheduling occurs with exempt employees, but all time worked must be reported. If lunch breaks are interrupted, only actual time worked is reported.
3. No Volunteer Duty. Employees may not volunteer their time in this or other state agencies if they would be performing work similar to their primary state job.
4. Working "off the clock" is prohibited. Employees and their supervisors who permit or engage in working without reporting such time may be subject to discipline, up to and including dismissal.

**Overtime Administration** will be the responsibility of supervisors at all levels. Goals and timetables must be reconciled with budget limitations during the process of approval of overtime and its method of compensation. For employees earning time and a half, their preference for compensatory time or cash should also be considered, within the restrictions imposed by this policy and Title 67, Chapter 53, and Title 59, Chapter 16, Idaho Code.

Specific requirements for administering overtime are:

- 1) **Authorization/Approval** - Approval from the supervisor is required before an employee is permitted to work overtime or adjust his/her work schedule. Supervisors should let each employee know if they are approved to work emergency overtime and how they are required to notify their supervisor if they do. The method for required documentation is at the discretion of the

supervisor. **NOTE:** Time worked on a holiday must also be approved in advance by the supervisor, as those hours are considered overtime.

- 2) **Controlling/Balancing Overtime** - Although the Department's fixed workweek cannot be altered to avoid overtime compensation, an employee's schedule may be altered to avoid overtime. This is accomplished by changing the days and/or hours an employee works within the same week. Any compensatory time accrued the first week of a bi-weekly pay period may be taken the second week. The time record should indicate all actual hours worked and the number of compensatory hours used. **NOTE:** For employees not exempt from FLSA overtime payment rules, compensatory time accrues at the time-and-a-half rate.

The state is considered a single employer for determining the number of hours worked. If an employee works for more than one state department, the employee's combined service will be subject to applicable laws and DHR rules governing overtime.

- 3) **Controlling Compensatory Time** - Compensatory time accrual is limited to 240 hours. Supervisors may establish accrual limits less than 240 hours. Each supervisor may, at his/her discretion, permit or require an employee to take compensatory time off at specific times, which will have the least impact on operations. Accrued compensatory time must be taken before vacation leave can be used, provided this does not cause the employee to lose vacation due to state maximum accruals.

**Leave of Absence With Pay** such as vacation, sick leave, special leaves, or compensatory time taken is a paid leave of absence from duty with prior approval of the supervisor. The purpose of leave of absence with pay is to help ensure that an employee is paid for 40 hours in a workweek even if he/she is absent from the job for an approved and valid reason. **No employee can use paid leave when it would result in him or her being paid for more than 40 hours in a workweek.**

**"Earned Administrative Leave"** (EAL) means hours which exceed an employee's regularly scheduled hours, but do not result in overtime. EAL may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) work week. Section 67-5302(10), Idaho Code.

EAL will be accrued in any week an employee worked 40 hours or less but would be compensated for more than forty (40) hours due to holiday time off, MDA, sick or military leave taken. Since the employee did not **work** more than 40 hours, they are not entitled to overtime. EAL may be earned by FLSA-Exempt and FLSA-Covered employees. EAL is subject to straight-time compensation only.

Accrued EAL may be taken as approved leave (Time Code EAT) which will be compensated at the employee's regular hourly rate.

Accrued EAL balances will be used prior to using vacation and/or compensatory time unless such use will result in an employee's inability to accrue vacation leave, i.e., the employee has reached the maximum vacation accrual limit.

Supervisors and managers are expected to monitor EAL accrual and, whenever practical, to modify an employee's work schedule to prevent its accrual. However, an employee's work schedule shall not be adjusted to reduce or avoid compensation of holiday, MDA, sick or military leave taken. Supervisors and managers are also expected to arrange an employee's work schedule so he/she uses any EAL hours earned within six (6) months of its accrual. Earned administrative leave taken shall be coded "EAT" on the employee's time record.

EAL must be paid in cash upon termination or transfer from the Department.

**Vacation Leave** shall not accrue to employees on any kind of leave of absence without pay, suspension without pay, or layoff. A supervisor shall permit an eligible employee to take vacation leave to the extent such leave has been accrued and approved in advance. Vacation accrual limits and rates are governed by Title 67, Chapter 53, and Title 59, Chapter 16, Idaho Code.

**NOTE:** For purposes of the use of **sick leave** and **medical appointment leave** below, "family" means a spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage.

**Sick Leave** is available to all eligible employees and must not be taken in advance of being earned. Sick leave shall be used only in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family.

**Medical Appointment Leave** - An employee may be allowed up to two (2) hours for each "occasional" medical appointment, without charge to sick leave, for personal or family member medical, dental or optical examination or treatment. Employees should attempt to schedule their appointments with the least disruption to the work schedule. Leave for any medical appointment must have prior approval of the supervisor. Employees are expected to notify their supervisors at least 24 hours in advance of scheduled doctor appointments. Employees must have "actual hours worked" on the day they utilize the medical appointment benefit, and medical appointment leave shall be coded "MDA" on the employee's time record.

"Occasional appointments" are defined as those that occur at irregular intervals. Regularly scheduled appointments on a recurring basis (examples: therapy; follow-up treatments; rehabilitation) shall be charged to the employee's sick leave balance, other

accrued leave, or leave without pay. "MDA" may be used for an employee's participation in the Employee Assistance Program (EAP).

Use of the medical appointment benefit may be limited by the appointing authority on a case-by-case basis where frequency of use is impeding organizational effectiveness or misuse is suspected.

An employee who is not eligible to accrue vacation and sick leave is not entitled to the medical appointments benefit. For those employees, time off for medical appointments shall be leave without pay.

**Maternity Leave** shall be granted under the same conditions and requirements as other compensable and non-compensable leave. Accrued sick leave may be used only during the period of disability. The employee's physician shall be considered the primary authority in determining the disability period insofar as compensable sick leave is concerned.

**COMPENSABLE HOURS** may include: 1) Holidays, 2) Travel Time, 3) Stand-By Time, 4) Show-Up Time, and 5) Call-Back Time. These are defined as follows:

**1) Holidays** - A holiday is any day designated by the President of the United States or Governor of Idaho for a public fast, thanksgiving, or holiday. A holiday is a day of exemption from work in which employees are compensated as if they had actually worked (Holiday Pay). Employees deemed eligible for benefit status (based on the nature of their appointment) are entitled to Holiday Pay.

An employee must be in active pay status either the day preceding or the day following a holiday in order to receive Holiday Pay. An employee must receive some paid leave, wages or salary for the pay period in which the holiday occurs to receive the Holiday Pay benefit.

Officially designated holidays for State of Idaho employees include:

New Year's Day	January 1 <sup>st</sup>
Martin Luther King/Human Rights Day	3 <sup>rd</sup> Monday in January
President's Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup>
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day	2 <sup>nd</sup> Monday in October
Veterans Day	November 11 <sup>th</sup>
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Christmas Day	December 25 <sup>th</sup>

(NOTE: If the designated holiday occurs on Saturday, the observance will be the preceding Friday. If it falls on Sunday, the following Monday will be granted.)

An **eligible employee** whose regularly scheduled day off falls on a holiday should receive the regularly scheduled workday closest to the holiday as the holiday. Fulltime employees with flextime schedules of more than 8 hours per day will revert back to 8 hours per day during holiday weeks. A fulltime employee shall receive holiday pay in accordance with the number of hours the employee works on a regular workday. If a full-time employee's schedule is so irregular that a regular workday cannot be determined, the employee shall receive eight (8) hours of Holiday Pay.

The following example of a possible holiday scenario illustrates two different holiday designations.

Friday, July 3<sup>rd</sup>

State Designated/Observed Holiday

Saturday, July 4<sup>th</sup>

Legal/ Actual Holiday

An **eligible employee** who works on **both** the legal/actual holiday **and** the state-designated/observed holiday will receive **Holiday Overtime Pay** and **Holiday Pay** only on the state-designated/observed holiday.

An **eligible employee** who works **only** on the legal/actual holiday (and not the state-designated/observed holiday) will receive **Holiday Overtime Pay** for hours worked on the legal/actual holiday and will receive **Holiday Pay** only on the state-designated/observed holiday.

**Eligible part-time employees** are to receive the benefit of Holiday Pay; however, the amount received depends upon their type of work schedule. Following are three types of part-time work schedules and corresponding Holiday Pay formulas:

A) The employee works a **standard number of hours on specified days of the week**. The employee is paid for the holiday to the extent he/she would have worked had the holiday been a regular workday.

- An employee works 32 hours per week, 8 hours per day, Monday through Thursday. A holiday occurs on Monday. The employee will receive 8 hours Holiday Pay. If a holiday occurs on Friday the employee should receive Thursday as a holiday.
- An employee works 20 hours per week, 4 hours per day, Monday through Friday. The employee will receive 4 hours Holiday Pay for each holiday occurring.

B) The employee works a **standard number of hours per week, but the hours per day and/or days of the week vary**. For calculation purposes the formula is .2 x standard number of non-overtime hours worked per week = Holiday Pay. For example:

- An employee works 32 hours per week. The workload varies so one week the employee may work 8 hours per day for 4 days, and another week the



employee may work 5 days with the hours each day varying. When a holiday occurs, this employee will receive 6.4 hours of Holiday Pay (i.e.,  $.2 \times 32 \text{ hours} = 6.4 \text{ hours Holiday Pay}$ ).

C) The employee works an **irregular number of hours and/or days per week because the hours worked fluctuate with the work volume**. For calculation purposes the formula is  $.2 \times \text{non-overtime hours submitted the holiday week} = \text{Holiday Pay}$ .

Part-time Holiday Pay calculations based on hours submitted the week of the holiday include both hours actually worked and paid leave submitted. With this formula, the amount of Holiday Pay each employee receives will vary according to the individual's work schedule and leave usage. The amount will also vary from holiday to holiday, depending upon whether the holiday occurs during a slow work period or a peak work period.

Following are hours submitted during a holiday week by five different irregularly scheduled (hours and work volume fluctuate) part-time employees and the corresponding Holiday Pay:

<u>Employee</u>	<u>Hours Submitted</u>	<u>Holiday Pay Hours Due</u>
A	0	0
B	16	3.2
C	34	6.8
D	38	7.6
E	44	8.0*

\*4 hours were overtime hours and not part of Holiday Pay calculation.

- 2) **Travel Time** - In general, time spent traveling for the purpose of engaging in official business is counted as hours worked. State travel policies are governed by the State Board of Examiners. See their policy #442-50 for more information ([www.sco.state.id.us](http://www.sco.state.id.us)).
- Employees required to work away from their assigned reporting location shall have such travel time considered as hours worked.
- If an employee is directed as part of his/her job to travel on non-working hours, the employee is eligible for travel time en route.
- Travel time outside of an FLSA exempt-employee's normal work schedule to attend conferences, seminars, association meetings, etc., when the employee requests the travel, shall be credited as work time if required by law or approved by the Division Administrator or equivalent.

- Work assignments that require an employee to stay out over a weekend or overnight(s) will qualify for expenses, but no time will be compensated beyond travel and actual hours worked.

The following are **excluded** in the definition of travel time:

- Time spent in ordinary travel between work and home.
- Time spent by an employee during periods of unauthorized travel, compensable, or non-compensable leave.
- Hours accumulated for the convenience of the traveler, such as time spent in travel by indirect routes, stopovers for personal reasons, or leaving earlier and/or returning later than necessary are considered excess hours. Excess travel time during working hours must be charged to vacation leave or accrued compensatory time.
- Meal periods.
- Time spent traveling outside the employee's normal work hours when the employee has requested the travel to attend conferences, seminars, meetings, etc., which are not job-related, and/or are for personal benefit.

**3) Stand-By Time** - Time spent under conditions which prevent the employee from using the time effectively for personal activities and which require the employee to be in a constant state of readiness and able to work at any time. These are considered hours worked.

**4) Show-Up Time** - Employees whose jobs are dependent on workload requirements may be directed not to report to work on a normally scheduled workday. Vacation leave, compensatory time, or leave without pay must be taken for the period employees are directed not to work. If employees are not given such notice and report for work but are then released from duty, they shall receive at least 2 hours pay for show-up time to be compensated as administrative leave at their regular rate of pay.

**5) Call-Back Time** - If an employee is called back by the supervisor to work outside his/her scheduled hours, he or she will be paid at their regular hourly rate. However, if the employee works less than 2 hours, the employee shall receive at least 2 hours pay for call-back time, to be compensated as administrative leave at their regular rate of pay.

**NON-COMPENSABLE HOURS** include 1) On-Call Time and 2) Leave of Absence Without Pay, which are defined as follows:

1) **On-Call Time** - Time when an employee is required to wear a pager or similar device, or to leave word at home or with the Department where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. On-call time is not compensable.

2) **Leave of Absence Without Pay** - An employee may, at the discretion of the supervisor, be granted leave without pay for a specified length of time when such leave would not adversely affect the operations of the Department. The request must be in writing and must establish reasonable justification for approval. Whether the employee is required to exhaust accrued vacation leave or compensatory time before commencing the leave is determined by the supervisor and the employee.